IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 766 OF 2005

Shri L.S. Pawar ..Petitioner

Vs.

1. Union of India and ors. ..Respondents

Mr. Nitin Pradhan with Ms. S.D. Khot i/by V.M. Advani, A.M. Sachwani and N.J. Heera for Petitioner.
Mr. R.F. Lambay for Respondent Nos.1 to 3.
Mr. A.S. Shitole, APP for Respondent No.4-State.

CORAM: S.S. PARKAR & ANOOP V. MOHTA,JJ.

Date : September 27, 2005.

P.C.:

1. Heard both sides at length. This petition is filed for quashing of F.I.R. in the year 2005 though it is not disputed that charge-sheet had already been filed in this case by the C.B.I. in December, 2004. In the course of the arguments the main grievance made on behalf of the petitioner is that in view of the letter dated 10/4/1995 annexed as Annexture "C" to this petition which was addressed to Director, Central Vigilance Commission by P.L. Roongta, the CBI could not have reinvestigated the case for a period prior to the said letter dated 10/4/1995.

2. On behalf of the respondents it was pointed out that in view of the provisions of the Prevention of Corruption Act, 1988 and the decision of the Supreme Court in the case of Satya Narayan Sharma vs. State of Rajasthan reported in **2001 (8) SCC 607** the trial in the case cannot be stayed. It was also argued on behalf of the respondents that when the alternate remedy to apply for discharge is available, this court may not exercise extra ordinary jurisdiction of this court under Article 226 of the Constitution. On behalf of the respondents FDRs in the names of the firms run by the close relatives, including the wife of the petitioner, have been relied on which are in the sum of more than Rs.1 crore. Petitioner's counsel, however, stated that since letter of 10/4/1995, referred to above, is not part of the charge-sheet, the petitioner will not be in a position to rely on the same in the discharge application, which appears to be trump card of the defence of the petitioner, so far as the investigation in respect of the case for a period prior to 1995 is concerned. However, the prosecuting agency has no objection if the petitioner relies on the said letter

of 10/4/1995 in the discharge application if filed by him, which probably can also be relied by the defence by way of defence at the trial. The petitioner also wants to rely on the representations made by the Chartered Accountant of the petitioner to the Director, C.B.I., New Delhi and to the Investigating Officer, C.B.I., Mumbai on 2-10-2003 and 20-9-2003 respectively. Mr. Pradhan, after taking instructions from the petitioner, states that the petitioner wants to withdraw this petition and file discharge application before the trial court if all the contentions raised in this petition are kept open.

3. On the application of Mr. Pradhan, this petition is allowed to be withdrawn keeping all the points raised in this petition open.

(S.S. Parkar,J.)

(Anoop V. Mohta,J.)